

L.S.G (1935) Department.

MS SERIES.

G.O. No. 1956 P.H.

DATED 29-7-1935.

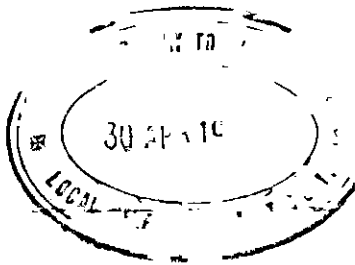
[Despatch Abstract.]

Buildings - Mangalore Municipal Council - Construction of building -
F.S.No.324 of Central ward - Objection petition of Mr. U. Vittalacharya
Government interference - Declined.

Secy
Jy
20.4.38

To,

The Chief Minister, with the Government
of Madras, in charge of Local Boards
Port folio, Fort St. George,
M A D R A S.



18569

M5
✓

The memorial submitted by
U. Vittalacharya, Manager,
"Dharma Prakash Press",
M A N G A L O R E.

Sir,

I feel compelled to approach your
goodself with this memorial, against what I must
characterise to be an act of indifference and
~~litharginess by the Mangalore Municipal Authori-~~
ties, which has resulted in grave injustice and
great inconvenience to me.

The facts of the case are briefly
put these, -

One Mr. U. Keshavacharya began to
raise a construction on a trust property adjoining
my Press and applied for a license for the
same to the Commissioner, Municipal Council,
Mangalore.

I then objected to the license being
granted and appealed to the Council but Mr.
Keshavacharya, proceeded with the construction
and hurried on with the work despite the fact
he was ordered by the Commissioner to stop the

work and went on defying even the terms of the license granted to him.

x I contended that my Press which is
x now brought under the operations of the Factory
Act is a 'Plant house' as defined in Section
217 (1) and held that if the plant house should
be 10 feet away from the nearest building, it
necessarily meant that no buildings could be
raised within ten feet of an existing Plant house.

I further contended that the proposed construction left absolutely no space between my building and the new one, thus contravening the rules and bye laws relating to buildings and my Press being a factory under the factory rules needs sufficient light and air for the benefit of workmen and specially where the workmen work in Lead.

Over and above these facts Mr. Keshavacharya has shut off all light and air from my buildings and has deliberately defied the terms of the license and has raised the construction bringing his roof in close contact with the roof of my existing building. This is a direct menace to public health specially in a thickly crowded locality.

That Mr. Keshavacharya has fortunately influential support in the Council and the Chairman in spite of this grave irregularity has failed or refused to exercise his powers

under Section 205 or Section 216 of the District Municipalities Act.

That while the Municipal Council is unnecessarily postponing consideration, Mr. Keshavacharya is hurrying on with the construction without let or hinderance in his own way and there seem no authority to check his illegal and irregular action.

In these circumstances I have felt the need to approach to Government with this representation that the Government may be pleased to call for the connected papers and direct the Inspector of District Municipality to go into the matter at an early date.

I beg to remain,

Sir,

Your most obedient servant,

Mangalore.

28th February 1935.)

Hittalacharya

pp 1-3 of

25/11/5
12/11/5

20/11/5

Cor 18568 from the Manager, Dharina Prakash Press
Mangalore, dt 28.2.35

L.S.G (M.) Dept

Buildings - Mangalore re: cl.
Constructing a house near the Press in
contravention of the Factory Act & the
terms of licence granted by Muz
Muz 18568-1.D.P.H. dt 10.5.35

dt 10/5

Referred to the
Commr. of the Mangalore Muz.,
& ~~the D.P.P.~~ for remarks,
which should be submitted
through the D.P.P.

8/5
27/5

10/5

20

the

Commr. Mangalore Muz
(through the C.R.C
of Mangalore with ^{copy of} the
in original which should
~~be returned with reply~~
copy to the D.P.P. (a.m.)

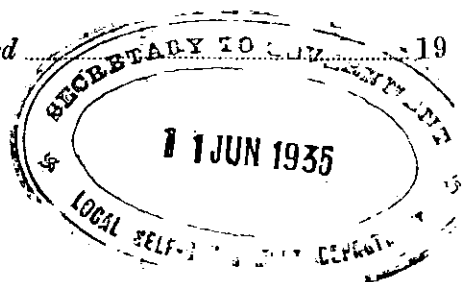
allowed
DL 10/6/35

Dpd. by	Van
	Post. ☒
	Manager
Dpr. s. n. d. s.	☒
Date	11/5/1935

with

DEPARTMENT.

Received



Registered



Subject.

23995 GN/12/35

f

per order

Government Memorandum No. 18568 - 1D1, P. H., dated the 10th May 1935 -- Construction of building -- T.S.No., 324 of Central Ward -- Objection petition of Mr. U. Vittalacharya.

ENCLOSURES.

No. nil

Spare copies

No. 1128/34-35

Station Mangalore, Dated the 27th May 193

Up with paper.

Recd.
4/6/35

From (Name) M. R. Ry. G. R. Karunakara Menon, A.V.L., B.A., B.L.,
(Designation) Commissioner, Mangalore Municipality.

To The Secretary to the Government of Madras,

THROUGH

Local Self Government

The Chairman, Municipal Council,
Mangalore,

Department.

Fort St. George,

Sir,

The Director of Town Planning,
Madras.

M_a_d_r_a_s.

Referring to the above Government Memorandum of the 10th May 1935, I beg to state as follows

On 15th September 1934 one Mr. U. Keshavacharya, Managing Director of the City Press and brother of the -- complainant Mr. U. Vittalacharya, applied for a license to reconstruct a shop building in T.S.No. 324 of Central Ward. The Municipal Health Officer to whom the application was referred, made a personal inspection of the site and as he did not find any objection for the grant of license, a license

was issued

was issued to the party on 9th October 1934 for the aforesaid reconstruction.

On 19th October 1934 an appeal to the council against my order granting the license was received from the complainant Mr. U. Vittalacharya, Manager, Dharma Prakasha Press and owner of the adjoining land of T. S. No. 324. In the meantime since the licensee was carrying on the work of the construction without leaving the four ft. of space from the road margin and from his neighbour's building, a notice was issued to the party to bring the work in conformity with the terms of the license. There upon the licensee too, filed an appeal to the Council against my order.

Both the above two appeals were placed before the council meeting for decision. The council however referred the matter to a special committee constituted for that purpose. The Committee's proceedings were placed before the council and the matter was again referred to the Law Committee of the council for legal opinion as regards the enforcement of Rule 8 of the building rules framed by Government. The Law Committee before deciding the question desired that a reference should be made to Government, and reference was thereupon made by me to which a reply has since been received - Vide Government Memorandum No. MS.1052 ^{P.H.} L & M., dated the 8th May 1935. (K)
This reference was only in connection with the enforcement of rule 8 of the building rules issued by Government in G.O.No.1621 P.H., (U) dated the 30th July 1932 and has nothing to do with the objections raised by the Manager, Dharma Prakasha Press.

The contention of Mr. U. Vittalacharya is that the building in question which had been already reconstructed, should be 10 ft. away from his Press building which he contends is a "plant house" within the meaning of Section 217 (1) of the District Municipalities Act. It is his contention that the press building being a place where machinery for printing is installed, is a "plant house" within the meaning of Section 217 (1) and that as such any building proposed

I agree.
It is obvious
from the act
that the section
refers to light
structures or
green houses
in which
plants are
grown &
not to
machinery
or such plant.
R.D. 6/6

to be constructed or reconstructed should be ten feet away from it. I am of opinion however that a press building cannot be treated as a "plant house", and the Municipal Health Officer also agrees with me. Section 217 (1) is one dealing with the general exemptions and it cannot be contended that a place where there is any sort of machinery or plant, is one which can claim exemption from the operation of the rules regarding construction or reconstruction of buildings contained in the Municipal Act. Even granting that the press building is a plant house, I think Section 217 (1) is not applicable to this case, as that Section only exempts certain classes of buildings: provided such buildings are plant houses, summer houses, etc., and are constructed 10 ft. away from the adjoining building. It follows therefore that the rule will apply to the "plant house" itself and not to new construction near by.

His statement about the indifference and lethargy of the Municipal authorities is ground-less. The license was issued by me on the recommendation of the Municipal Health Officer and when it was observed that certain conditions of the license were being violated, notice to stop work was issued immediately and as the party still continued to carry on the work he was prosecuted. No further action was taken by me as the matter was pending decision of the council.

The appeal petition of the complainant will again be placed before the next council meeting and its decision in the matter will be communicated to Government soon after the council decides the matter.

Your obedient servant,

C. R. Kammalakarachewon.

Commissioner.
27-5-35

Chairman, M.C.

D.T.O. no. 1039/35

10/6/35

Forwarded

R.D. 6/6/35

Forwarded.

Wellington

27th May 1935

aviary - a place for
keeping birds

glass-house = a garden
structure designed for
the production and culti-
vation of plants
of warmer climates
than our own

summer house - a house
in a garden used in
summer.

plant - Crops or material
of any trade
business

no. 18568
no. 23995 } 15

L.S. d. (P.H.)

Subject - Buildings - Mangalore
and cl - Reconstruction of a shop
building near a Press

One Mr. W. Keshava Charya
has constructed a shop building
in T & No. 324 of Central Ward.
As the man constructed the
building without leaving
the four feet of space
from the road margin as
demanded in the licence granted
by the Commissioner a notice
was issued to him to stop the

14.6.77 work as it violated certain
conditions of the licence. When

the party still continued to
carry on the work he was
prosecuted. The man filed
an appeal to the Council
contending that rule 8 of the
Building Rules issued with
G.O. No. 1621 R.H. of 30-7-1932

is not enforceable
in this case as the street
alignments has not been
prescribed by the Council

(U)

in the manner laid down in
Section 166 of the M.D. Act.
The Commission in the D.F.R.
thought that the rule was
enforceable. The question
was not free from doubt but
firstly declined to give legal
advice in the matter - vide
No. 1052 B.H. of 8-5-35.

(K)

27 One in the vital way.

The owner of a press in the
neighbourhood of the building
referred to ~~the~~ is ~~the~~ ^{the} ~~supra~~
represents

(i) that the above building
has been constructed in violation
of the terms of the licence
granted and has obstructed all
light and air from the building of the
(the press)

(ii) that the press building
is a 'plant-house' as

defined in Section 2(17) of

the M.D. Act, 1920 and

(iii) that no building could be
erected within 10 feet of an
existing plant-house.

Item (i) sufficient action

727

has already been taken by the
Commissioner (A) on page 4
and further action should be
taken by the Council in accordance
with the instructions issued

(K) was done, 10522 P.H. of 8-5-35.
action Services' called for

The following:-
Item (ii) in page 2 - Supra -
A 'plant house' means a

garden structure designed for
the protection and cultivation
of plants. A glass building
cannot be brought under this
heading - note the remarks
of the Council at (B) on
page 7 of - and those of
the D.P.B. on page 7 of.

On your note, not take
any action on this point,
as matters may be left to be
decided by the Council and
if the fact is dissatisfied
he can take it to a court
of law.

Item (iii) in page 2 Supra -
under Section 217 (1) the
plant house should be

wholly detached from, and
situated at a distance of
at least 10 feet from
the nearest adjacent building.
On consideration of the petitioners
that no building could be erected
within 10 feet of an existing
flame-house is not correct.

The Govt need not give any
advice on this point also.

The matters require to be
decided by the Council.

3. The receipt of the decision
of the Council provided by the
Commissioners and the above

paragraph of this letter
may be awaited. This

no seems to be a case of family
1-7-35 quarrel between brothers. This

does not seem to be a fit case

for interference from the Govt. In
any case the decision of the

municipal Council must be
awaited. The ^{petitioners} interpretation of section

217 of the M.A.M. Act is not

correct at all.

10-7-35

10/14/35

J

10/14/35

174

23915

The path may see a
return if any from the
the Council I don't
think there is a case
for Govt. interference

As
167

20.17/7
x circulated from
Govt.

My. I don't know why this
case has been put up in
a yellow pad.
I agree with the Secretary

RR
19.7



Extract of 'A' above has
been given to the current section
for necessary action

2. A draft order is submitted
for approval.

25/7
25/7

✓
25/7

23-7-35
23-7-35
24-7-35

22-7-35
S.I. also on
22-7-35

22-7-35

79
29/7

DRAFT FOR APPROVAL

G.F. 16.

L. S. A (P.H.)

Date.

Initials.

SUBJECT:—

When received for fair copying ..

When copied ..

When examined ..

When signed ..

When despatched.

Buildings —
Mangalore ml council —
construction of building. T-3- No.
324 of central ward — by spec-
tation of Mr. V. Vittala
— charge — for interference
declined

READ AGAIN .., dated ..

READ ALSO:—

No. 18568

From the Mr. V. Vittala charge, Manager
Dharma Prakash Press

No.

, dated

19

28-2-35

" 23995 "

Mangalore

comms Mangalore MHS

19

1128/34-35

Order

Ms.

Resolution

Resol.

No.

1956

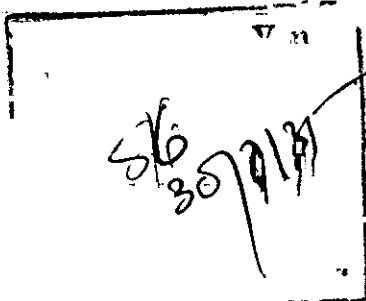
, dated

29-7

19

38

8/27/7



24-7-35

On your see no
reason to interfere in
the matter. The petitioner
may seek redress, if any, from the
municipal Council.
The receipt of the
decision of the council
in the matter furnished
by the Commissioner
Mangalore Municipality
in his letter need above
it awaited.

25/7

23-7-35

one comm. Mangalore
(this is one
Mangalore)

one comm. of S. K. K. (S. K. K. S. K. K.)

one to D. T. P. (S. K. K. S. K. K.)
copy to Petitioner (back
only)